# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES

No. ~~220~~ 132

LOUIS F. GENERES, PLAINTIFF IN ERROR,

vs.

LOUIS BONNEMER.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 11, 1867.

# SUPREME COURT OF THE UNITED STATES

## No. 280.

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LOUIS F. GENERES, PLAINTIFF IN ERROR,

vs.

LOUIS BONNEMER.

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IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

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1 Circuit Court of the United States, fifth circuit and district of Louisiana.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

*Petition, filed November* 19, 1866.

To the honorable the judges of the United States Circuit Court for the fifth circuit and district of Louisiana:

The petition of Louis Bonnemer, a subject of the empire of France, humbly represents—

That L. F. Generes, a citizen of the State of Louisiana, and a resident of the city of New Orleans, is justly and truly indebted
2 unto your petitioner in the full sum of three thousand two hundred and sixty-one 68-100 dollars, ($3,261 68-100,) besides interest and costs of suit for this, to wit:

That the said defendant was one of the partners of the commercial firm of Abat, Generes & Co., which existed in the city of New Orleans in the years 1861 and 1862, and prior thereto.

That the said firm, prior to the year 1861, and at divers times during the year 1861, and subsequent thereto, received for account of your petitioner, sundry sums of money, and amounting, in the aggregate, to the sum of $4,454 40-100; that on account thereof the said defendants have paid the sum of $1,192 73, leaving a balance still due and unpaid of $3,261 68-100, and for which they refuse to account.

Petitioner prays that the said defendant, L. F. Generes, be cited to appear and answer this petition; and that after all due and legal proceedings, he may be condemned to pay to your petitioner the said sum of $3,261 68-100 dollars, interest at the legal rate from the April, 1862, and costs of suit; and petitioner prays for all
3 general and equitable relief.

(Signed) HUNT & DENEGRE,
*Att'ys.*

*Citation, issued November* 19, 1866.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

The President of the United States to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon L. F. Generes, a citizen of the State of Louisiana, to comply with the demand of Louis Bonnemer, a subject of the empire of France, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same, in the office of the clerk of the Circuit Court of the United States, 5th judicial circuit and district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judg-

ment will be rendered against him by default, which delay is encreased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held; and that you make due return hereof on the first Monday of December, 1866.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States of America, at the city of New Orleans, this 19th day of November, A. D. one thousand eight hundred and sixty-six, and of the independence of the United States of America the 91st year.

[SEAL.] (Signed) CHAS. CLAIBORNE, *Clerk.*
By F. B. VINOT, *D'y Cl'k.*

*Marshal's return.*

Received November 21st, 1866, and on the 22d day of the same month and year served a copy of the within citation and petition of plaintiff accompanying the same, on L. F. Generes, the defendant named herein, by leaving said documents at his office, No. 109 Custom-house street, in this city, in the hands of H. Generes, clerk of said defendant, who was absent at the time of said service.

New Orleans, November 22d, 1866.

(Signed) M. EGAN,
*Deputy U. S. Marshal.*

United States Circuit Court.

*Answer.—Filed December* 8, 1866.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

The defendant comes into court, by his undersigned attorney, and reserving to himself now, and at all times hereafter, all legal exceptions to plaintiff's petition, for answer to the same, he says:

1°. That he denies generally and specially all the allegations in said petition contained and not hereinafter admitted.

2°. He admits that on or about the 27th May, 1857, his commercial firm of Abbat, Generes & Company, of which he was, until a few months ago, a member, agreed to act as agents of plaintiff, and to receive from him and his agent, Manuel Elliott, such sums of money as they should deposit with said firm for a period of not less than three months, on which the said firm agreed to pay seven per cent. interest per annum.

3°. That in conformity to said agreement, plaintiff deposited with them $3,100 on the 27th May, 1857, and his agent, Elliot, at various times, other sums of money, for all which his said firm has faithfully accounted and paid the stipulated interest.

4°. He further avers, that in the year 1862, his said firm being unwilling to act any longer as pl'ff's agents, inform him of the fact,

whereupon he appointed another agent; that at that time, to wit, on the 28 April, 1862, resp'd't's firm, having fully paid and satisfied all other claims and demands of pl'ff, found themselves in possession of the following obligations and assets belonging to him, viz:

7 Bank notes, being current funds..... ..... $1,192 73
Notes issued by the so-called confederate government to aid them in the war it was then carrying on against the United States government..... 3,261 68

All which obligations and assets had been deposited with their said firm by the aforesaid Manuel Elliott, as agent of plaintiff.

Your resp'd't further avers, that his said firm, as soon as informed that plaintiff had appointed an agent authorized to settle with it, immediately tendered him all the aforesaid assets and obligations belonging to plaintiff, who was only willing to receive the $1,192 73, in bank notes, which were accordingly paid him, as he admits, but refuses to receive the confederate notes, amounting, as already said, to $3,261 68, pretending that pet'n'r was liable to him in current funds, altho' he well knew that said confederate notes had been deposited with him by his own agent, Mr. Elliot, and that they were in no sense money for which resp'd't was or could be held responsible.

In consideration of the premises, and whereas respondent is
8 now, and has at all times been ready and willing to restore to plaintiff the aforesaid confederate notes, received by his said firm as aforesaid, he prays that plaintiff's petition be dismissed with costs, and that he have general relief, &c.

(Signed) G. SCHMIDT, *Att'y.*

Circuit Court of the United States, fifth circuit and district of Louisiana, November term, 1866.

*Hearing and submission of cause.—From the minutes of Febr'y* 18, 1866.

MONDAY, *February* 18, 1867.

The court met at 11 a. m. Present, his Honor, E. H. Durell, dist. judge.

LOUIS BONNEMER *vs.* L. F. GENERES. } No. 5,018.

9 This cause came up for trial—Hunt & Denegre for plaintiff; G. Schmidt for defendant.

When, after hearing pleadings, evidence, and argument, the court took time to advise.

United States Circuit Court, 5th circuit and district of Louisiana.

*Note of evidence, filed February* 18, 1867.

LOUIS BONNEMER
*vs.*
L. F. GENEVES. } No. 5,018.

*Note of evidence.*

The plaintiff offered in evidence account "A," and letter "B."
Defendant offered documents C, D, E, F, G, H, I, K.
Manuel Elliot sworn for plaintiff.
L. F. Generes sworn for defendant.

*Account "A" offered by pl'ff, February 18, 1867.*

Dr. Mr. Louis Bonnemer in ac't c't int., at 7 per cent. to Jan'y 1862, with Abat Generes & Co. Dr.

| 1861. | | m. | d. | | | 1861. | | y. | m. | d. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| July 5. | To Trs 5,250 at $5 25 | 5 | 26 | 34 22 | 1,000 00 | Jan'y 1. | By balance | 1 | | | 310 57 | 4,436 83 |
| Aug. 26. | Postage by express | 4 | 05 | ---------- | 55 | Jan'y 21. | Rec'd from Mr. Elliott. | | 11 | 10 | 19 70 | 297 67 |
| Sept. 7. | Frs 25,000 at $5 15 | 3 | 24 | 107 60 | 4,854 37 | Feb'y 16. | " " | | 10 | 15 | 26 60 | 434 33 |
| Sept. 12. | Postage to French consul | 3 | 19 | ---------- | 50 | March 15. | " " | | 9 | 16 | 31 21 | 561 33 |
| | | | | | | April 22. | " " | | 8 | 9 | 14 23 | 293 63 |
| Jan'y 1. | Balance interest | | | 300 94 | ---------- | July 22. | " " | | 5 | 9 | 4 06 | 131 36 |
| | | | | | | Aug. 16. | " " | | 4 | 15 | 11 40 | 434 33 |
| | | | | | | Sept. 17. | " " | | 3 | 14 | 9 26 | 458 67 |
| | | | | | | Oct. 28. | " " | | 2 | 03 | 11 76 | 960 45 |
| | | | | | | Nov. 22. | " " | | 1 | 09 | 3 20 | 423 00 |
| | | | | | | Dec. 24. | " " | | | 7 | 77 | 566 13 |
| | | | | 442 76 | | 1862. | | | | | | |
| | | | | | | Jan'y 1. | | | | | 442 76 | |
| ---------- | Balance | | | | 3,443 25 | | Balance interest | | | | | 300 94 |
| | | | | | 9,298 67 | | | | | | | 9,298 67 |

1862.
Jan'y 1. By balance ..... 3,443 25
E. & O. E.
New Orleans, 1 Jan'y, 1862.
(Signed) ABAT, GENERES & CO.

11 *Letter B.—Offered by plaintiff, and filed February* 18, 1867.

NOUVELLE ORLEANS,
28 *Janvier*, 1862.

Monsieur L. Bonnemer, a Paris:

MONSIEUR ET AMI: Sous ce pli veuillez v. c'e c't arrete au 1r Janvier courant soldant en votre faveur de $3,443 25-100. Nous vous annoncons par la meme occasion que nous nous voyons contraints de vous donner avis que, dans le delai voulu par nos conventions, c'est a dire, trois mois a patir de cette date nous mettrons un terme au contrat etabli dans v. lettre du 27 Mai, 1857, et confirme dans les deux notres du 20 Juin, et 5 Janvier suivants. D'apres ces arrangements pris entre nous, nous vous allouons un interet de 7 pour cent. l'an sur toutes sommes versees entre nos mains; cette clause est devenue onereuse pour nous; la guerre a suspendu toutes sortes d'affaires; les personnes qui pourraient sffrir des garanties suffisantes refusent l'argent meme a des taux tres reduits et les transactions qui s'offrent presentent trop de risques. D'apres cet etat de
12 choses vous comprendez que la mesure que nous prenons aujourd'hui a regret, et que nous avous ajournee aussi longtemps que possible, nous est commandee, par la necessite.

En meme tems, nous nous mettons a votre disposition pour la gestion de vos revenus, comme depositaires et comme commissionaires: nous continuerons si cela vous convient, comme par le passe a recevoir de votre agent collecteur les rentrees qu'il fera—si vous desirez que l'argent soit place, nous le ferons pour notre compte, moyenant la commission ordinaire de 9 pour cent. (neuf pour cent.) sur l'escompte obtenue; sur les remises a faire notre commission serait de 1 pour cent. (un pour cent.)

Vous priant, Monsieur et ami, de compter, en tous temps, sur notre devouement, nous vous saluons bien cordialement.

ABAT, GENERES & CO.

*Document "C," offered by defendant, February* 18*th*, 1867.

N'LLE ORLEANS, 22 *Juin*, 1861.

Mr. L. Bonnemer, a Paris:

13 MONSIEUR: Nous avons sous les yeux votre honoree du 30 Mai dernier, nous demandant une remise de six mille dollars, a valoir sur vos fonds entre nos mains; aujourd'hui nous ne saurions acquiescer a votre demande, d'abord, nous n'avons pas cette somme a votre credit, ou du moins nous ne l'aurons pas des aujourd'hui ou demain. D'apres la note ci contre ce solde a votre credit est de $6,023 79, mais Mr. Elliott, votre agent, nous a notifies que nous aurions a lui compter cette semaine le montant de vos taxes, et celles de la ville seules, s'elevent a $900 (moins q'ques sous,) or, vous savez qu'on ne peut manquer d'acquitter ces impots sans les augmenter de frais enormes; nous n'avons donc pas pu refuser a Mr. Elliott de lui fournir cette somme qui reduit v. balance a cinq mille et q'ques dollars.

En second lieu nous vous prions de vous referer a notre lettre du

5 Janvier, 1858. Vous y verrez avec quelle insistance nous passions comme condition indispensable d'au moins 3 mois, lorsqu'il vous conviendrait de retirer vos fonds d'entre nos mains.

14 Les occasions d'accepter des fonds remboursables sur demande on ete nombreuses pour nous, a des taux d'interets des plus avantageux. Eh bien ! meme en temps prosperes, quand l'argent s'obtient facilement, nous nous sommes fortement oppose a ce genre de transactions. En effet il suffisait d'une experience assez limitee des affaires pour prevoir ce qui arrive precisement aujourd'hui, c'est que le remboursement eu probablement exige en tems difficiles, lorsque les resources les plus abondantes et les plus variees resteraient inutiles entre nos mains.

Neanmoins nous ne ferons pas de ceci une question de droit entre nous. Des que nos rentrees nous le permettront, mais a coup sur et au plus tard dans le delai de 3 mois que nous avons designe, vous toucherez la somme que vous reclamez, si elle vous est due par nous. En attendant, toutes valeurs versees par Mr. Elliott vous serons immediatement remises, nous ne croyons pas que les communications puissent rester interrompues; les interets du monde entier exigent que nos avis aient libre cours d'une facon ou d'une autre.

15 Quand aux moyens de vous remettre ces fonds nous sommes certains de n'en point manquer, entr'autres la banque de la Louisiane a une forte balance (quelque $400,000) entre les mains de Hottinger a Paris, qui est destinee a y rester encore longtemps, malgre son desir de la transporter ici.

Veuillez agreer Monsieur, &c.,

(Signe) ABAT, GENERES & CO.

*Document "D," offered by defendant, February 18th, 1867.*

NEW ORLEANS, 28 *Janv.* 1862.

Mr. L. Bonnemer:

MONSIEUR ET AMI: Sous ce pli veuillez trouver v. ce. ct. arrete au 1 Janv. courant, soldant en v. faveur de $3,443 25-100. Nous vous annouucerons par la meme occasion que nous nous voyons contraints de v. donner avis que dans le delai voulu par nos conventions, c'est a dire trois mois a partir de cette date, nous mettrons un terme au contrat etabli dans v. lettre du 27 Mai, 1857, et confirme dans les deux notres du 20 Juin et 5 Janvier suivants. D'apres ces

16 arrangements pris entre nous, nous vous allouons un interet de 7 p. c. a l'an sur toutes sommes versees entre nos mains; cette clause est devenue onereuse pour nous; la guerre a suspendu toutes sortes d'affaires; les personnes qui pourraient offrir des garanties suffisantes refusent l'argent meme a des taux tres reduits et les transactions qui s'offrent presentent trop de risques. D'apres cet etat de choses vous comprendrez que la mesure que nous prenons aujourd'hui a regret et que nous avons ajournee aussi longtemps que possible n. est commandee par la necessite.

En meme temps, nous nous mettons a v. disposition pour la gestion de v. revenus comme depositaires et commissionaires; nous continue-

ront, si cela v. convient, comme par le passe a recevoir de v. agent collecteur les rentrees qu'il fera. Si vous desirez que l'argent soit place nous le ferons pour v. compte, moyennant la commission ordinaire de 9 p. c. sur l'escompte obtenue; sur les remises a faire, n. commission serait de 1 p. c.

V. priant, Monsieur et ami, de compter en tous temps sur
17 notre devouement, &c.

(Signe) ABAT & GENERES & CO.

*Document "E," offered by defendant, Febr'y* 18, 1867.

N. ORLEANS, *le* 25 *May*, 1857.

Messrs. Abat, Generes & Co., N. O.:

MESSIEURS: Dans le cas ou pour quelque cause que ce soit, Mr. M. Elliott aujourd'hui mon charge de pouvoirs cesserait de vouloir ou pouvoir soigner mes interets en cette ville, je vous autorise a le remplacer et a louer soit a baux, n'excedant pas une annee, ou autrement, les proprietes ou esclaves que je possede en cette ville; en toucher les loyers et toutes autre sommes qui pourraient m'etre dues pour quelque cause que ce soit, en donner bonne et valable quittance, m'obligeant a ratifier tout ce que vous jugerez convenable de faire dans les limites des pouvoirs enonces ci-dessus.

18 Recevez Messieurs, l'expression de ma haute consideration.

L. BONNEMER.

Aux soins de Mr. M. N. Borde, Paris.

*Document "F," offered by defendant, February* 18*th*, 1867.

NOUVELLE ORLEANS, *May* 27, 1857.

Messrs. Abat, Generes & Co.:

MESSIEURS: Je regrette que la maladie de Mr. Generes me prive du plaisir de le voir avant mon depart.

Je viens de verser entre vos mains $3,100 comme suit:

Mon check a votre ordre pour $2,755 sur la banque de la Louisiane.

Un billet de Peebles a mon ordre pour 345 3-100 a vingt-cinq jours de date.

Il est convenu que vous me tiendrez compte d'un interet a raison de 7 p. c. par an sur la somme ci-dessus, aussi que sur toutes
19 celles que chaque mois vous seront versees par mon charge d'affaires, Mr. Manuel Elliott, ou toutes autre personne.

En Janvier ou Fevrier de chaque annee je vous prierai de me faire une remise dont par avis ulterieur et suivant mes besoins je vous ferai connaitre le montant.

Devant prolonger mon absence pendant deux et peut etre meme trois ans, je vous serai oblige au commencement de chaque annee m'envoyer mon compte courant avec vous arrete au premier Janvier.

Ayez la bonte lorsque vous aurez un moment de loisir de m'ad-

dresser reception de cette lettre pour conformite et agreez l'expression de ma haute consideration.

L. BONNEMER.

Aux soins de Mr. M. N. Borde, Paris.
Answered 20 June 1857.

*Document "G," offered by defendant, February 19th, 1867.*

20 NEW ORLEANS, 19*th March*, 1864.

Messieurs Abat, Generes & Co.:

GENTLEMEN: We are in receipt of your note of yesterday, tendering us in our capacity of agents for Mr. Louis Bonnemer a sum of $3,261 68 in confederate states money.

In reply we beg leave to say that we decline receiving said amount, being already informed by Mr. Bonnemer that his intention is not to accept from you said currency in settlement of his accounts with you.

Very truly and respectfully, your most obd't servants,

LAFITTE, DUFILHO & CO.

*Document "H," offered by defendant, February 18th, 1867.*

N'ELLE ORLEANS, 17*th March*, 1864.

Messieurs Lafitte, Dufilho & Co:

21 GENTLEMEN: On or about the 1st day of October, 1862, on being informed by you that you were the agents of Mr. Louis Bonnemer, then a resident of Paris, France, I tendered to you a balance of ac. due said Bonnemer, in the currency of the confederate states, am't'g to thirty-two hundred and sixty-one 68 doll's, $3,261 68-100.

We now beg leave to renew to you, in writing, this tender, and request that, as the agents of Mr. Bonnemer, you will take charge of his property.

Very respectfully,

(Signe) ABAT & GENERES.

*Document "I," offered by defendant, February 18th, 1867.*

(Copie.)—Sent through Lafitte, Dufilho & Co.

N'ELLE. ORLEANS, 24 Juillet, 1863.

A. Mr. L. Bonnemer, a Paris:

MONSIEUR: Nous avons recu avant hier, par l'entremise de
22 Messrs. Lafitte, Dufilho & Co., votre lettre du 25 Juin et nous nous empressons d'y repondre. V. lettre de fin Mars dont vous nous parlez, ne nous est jamais parvenue; il nous eut donc ete difficile de vous en accuser reception. Vous nous en repetez dites vous la teneur, en nois preant de vous faire remise du solde de v.

compte que vous estimez devoir etre a peu pres de $4,500. Le compte courant ci inclus, arrete au 28 Avril, 1862, porte ce solde a $4,454 41-100 mais il ne faut pas oublier que depuis le 17 Septembre, 1861, jusqu'au 10 Mars, 1862, Mr. Elliott, votre agent collecteur, n'a verse entre nos mains, pour v. compte, que des billets du tresor des etats confederes, et que par consequent ce solde se divise en deux fractions distinctes; la premiere de $1,192 73, balance du compte du 17 Septembre, 1861, et compose de sommes versees en billets de banques de la ville. La seconde de $3,261 68-100 montant verse par Mr. Elliott (moins 55 cts. de port de lettres) en Novembre et Dec'bre, 1861, and Janvier et Mars, '62, compose comme nous v. l'avons dit de billets confederes.

23 Vous trouverez donc sous ce pli 1re de change de J. H. Eimer & Co., sur Davillier & Co., Paris, datee de ce jour a 60 jours de vue a v. ordre, pour la somme de fr. 4,293 85 qui au change de 3 60 represente la 1re somme de $1,192 23 que nous portons au debit de v. compte.

Quant a la seconde portion de solde, soit $3,261 68 vous ne pourriez la realizer dans ce moment sans subir une forte perte, les autorites militaires ayant depuis le mois de Mai, 1862, demoietise les billets du tresor confedere dont se compose sette somme; nous nous abstenons donc de vous en faire la remise et la tenons a v. disposition.

Lorsque MM. Ernest Quertier & Co., nous ont fait savoir l'annee derniere que vous les aviez constitues vos agents ici, nous leur avons offert de faire immediatement entre leurs mains le versement du solde qui vous appartenait chez nous; mais ces Messieurs out refuse de le recevoir.

Veuillez Monsieur, &c.

(Signe) ABAT, GENERES & CO.

*Document "K" offered by defendant, and filed Feb'ry 18th, 1867.*

**Dr. Mr. L. Bonnemer in ac. current, int. ac. 7 per cent. to Jan'y, 1862, with Abat, Generes & Co. Cr.**

| 1861. | | | y. | m. | d. | | | 1861. | | | y. | m. | d. | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| July | 6. | To Trs. 5,250 at $5 25 | | 5 | 26 | 34 22 | 1,000 00 | Jan'y | 1. | By balance | | 1 | 00 | 310 57 | 4,436 83 |
| Aug. | 26. | Postage by express | | 4 | 05 | | 55 | Jan'y | 21. | Rec'd from Mr. Elliott | | 11 | 10 | 19 70 | 297 67 |
| Sept. | 7. | Trs. 25,000 at $5 15 | | 3 | 24 | 107 60 | 4,854 37 | Feb'ry | 16. | " " | | 10 | 15 | 26 60 | 434 33 |
| Sept. | 12. | Postage to French consul | | 3 | 19 | | 50 | Mar. | 15. | " " | | 9 | 16 | 31 21 | 561 43 |
| Jan'y | 1. | Balance interest | | | | 300 94 | | April | 22. | " " | | 8 | 9 | 14 23 | 293 63 |
| | | | | | | | | July | 22. | " " | | 5 | 9 | 4 06 | 131 36 |
| | | | | | | | | Aug. | 16. | " " | | 4 | 15 | 11 40 | 434 33 |
| | | | | | | | | Sept. | 17. | " " | | 3 | 14 | 9 26 | 458 67 |
| | | | | | | | | Oct. | 28. | " " | | 2 | 03 | 11 76 | 960 45 |
| | | | | | | | | Nov. | 22. | " " | | 1 | 09 | 3 20 | 423 00 |
| | | | | | | | | Dec. | 24. | " " | | | 7 | 77 | 566 13 |
| | | | | | | 442 76 | | 1862. | | | | | | 442 76 | |
| 1862. | | | | | | | | | | | | | | | |
| Jan'y | 1. | Balance | | | | | 3,443 25 | | | | | | | | 300 94 |
| | | | | | | | $9,298 67 | | | | | | | | $9,298 25 |

1862.
Jan'y 1. By balance ..... 3,443 25
E. & O. E.
New Orleans, 1 Jan'y, 1862.
(Signed) ABAT, GENERES & CO.

GENERES VS. BONNEMER.

(Copy.)





*Dr.* *Louis Bonnemer in ac. current interest a. 7 p. c., April 1862, with Abat' Generes & Co.* *Cr.*

| | | | | | m. | d. | | |
|---|---|---|---|---|---|---|---|---|
| 1862. | | | 1862. | | | | | |
| Jan'y 30 | To postage | 55 | Jan'y 1 | By balance, in.,, bank notes, $1,192 73 | | | | |
| April 28 | To balance | $4,454 41 | | confederate, $2,250 52 | 3 | 28 | $79 | $3,443 25 |
| | | | Jan'y 30 | By rec'd of Mr. Elliott | 2 | 28 | 7 19 | 420 76 |
| | | | M'rch 10. | " " " " | 1 | 19 | 4 76 | 500 00 |
| | Ac. No. 14 | | | | | | $90 95 | |
| | | | April 28 | Interest 7 p. c. to date | | | | 90 95 |
| | | $4,454 96 | | | | | | $4,454 96 |

1862.

| | | |
|---|---|---|
| | Bank notes | $1,192 73 |
| April 28 | By balance, conf | 3,261 68 |
| | | $4,454 41 |

E. & O. E.
New Orleans, April 28, 1862.
(" Signed")

ABAT' GENERES & CO.

*Judgment.—From the minutes of February 20th, 1867.*

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

For reasons orally assigned by the court, it is ordered, adjudged, and decreed, that the plaintiff, Louis Bonnemer, do have and recover judgment against the defendant, L. F. Generes, for the sum of three thousand two hundred and sixty-one 68-100 dollars, with 7 p. c. interest thereon, from 28 April, 1862, till paid, and costs of suit.

*Rule for a new trial.—From the minutes of February* 23d, 1867.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

On motion of G. Schmidt, of counsel for defendant, ordered
27 that plaintiff show cause, on Thursday, the 28th day of February, 1867, why the judgment rendered in this cause should not be set aside, and a new trial granted on the grounds filed.

United States Circuit Court.

*Motion and ground for a new trial, filed 23d February,* 1867.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

On motion of G. Schmidt, of counsel for defendants, ordered that plaintiff shew cause, on Thursday the 28 day of Febr'y next, why the judgment rendered in this cause should not be set aside, and a new trial granted on the following grounds:

1st. Because said judgment is contrary to law in this, that it allows plaintiff to recover in a case where he and his agent had both assisted in circulating a currency that was illegal and calculated to aid parties in open rebellion against the authorities of the United
28 States, which is clearly contrary to public policy, as well as contrary to the principles of international law and the adjudications of the Supreme Court of the United States.

Secondly. Because the judgment is contrary to the weight of evidence; the testimony having clearly established that dif't was the agent of plaintiff, and shere being no contract between them stipulating that he should pay interest on confederate notes, or anything but money, and the decision virtually deciding that the so-called confederate notes are money.

And also because the evidence proves that Elliott, the agent of the plaintiff, by receiving the confederate notes in payment of the rents and other sums due plaintiff, thereby illegally gave currency

to said confederate notes, and thereby assisted in an illegal transaction, whereby his employer, the plaintiff, is precluded from recovering anything from def't in the present suit.

Thirdly. For other errors apparent on the face of the proceedings to be assigned on the trial of this rule.

29 *Marshal's returns.*

Received February 25th, 1867; and on the 26th day of same month and year served a copy of the within rule and grounds on Wm. H. Hunt, esq., one of the firm of Hunt & Denegre, esqrs., attorney for plaintiff in the within named suit, in the hands of Wm. H. Hunt, esqr. personally.

New Orleans, Feb. 28, 1868.

(Signed) M. EGAN,
*Dep'y U. S. Marshal.*

*Order.—Rule discharged.—From the minutes of Feb'y* 28, 1867.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

The rule taken by the defendant on 23d instant came up, (G. Schmidt for pl'ff in rule,) when, after hearing argument, it is ordered that the rule be discharged and a new trial refused with costs.

Circuit Court of the United States, Fifth Circuit and District of Louisiana, November term, 1866.

30 *Judgment.—From Judgment Book, No.* 5.

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

NEW ORLEANS, *Wednesday, Febr'y 20th*, 1867.

Court met pursuant to adjournment. Present: Hon. E. H. Durell, Dist. Judge.

For reasons orally assigned by the court, it is ordered, adjudged, and decreed that the plaintiff, Louis Bonnemer, do have and recover judgment against the defendant, L. F. Generes, for the sum of three thousand two hundred and sixty-one 68-100 dollars, with 7 p. c. interest thereon, from the 28th April, 1862, till paid, and costs of suit.

Judgment rendered February 20, 1867.

Judgment signed March 1st, 1867.

(Signed) E. H. DURELL.
*Judge.*

31 *Petition for writ of error, filed March 5th*, 1867.

LOUIS BONNEMER
*vs.* } No. 5,018.
L. F. GENERES.

To the honorable the Judges of the Circuit Court of the United States, Fifth Circuit, District of Louisiana:

The petition of Louis F. Generes, a citizen of the State of Louisiana, respectfully represents: That he has been advised that there is error to his prejudice in the final judgment rendered against him at the suit of Louis Bonnemer against L. F. Generes, in this honorable court, and signed the 1st instant.

Wherefore he prays that a writ of error to operate as a supersedeas be allowed him to the Supreme Court of the United States upon his furnishing security according to law, &c.,

(Signed) G. SCHMIDT,
*Attorney.*

*Order allowing same.*

32 IN CHAMBERS, *March 5th*, 1867.

Let a writ of error issue as prayed for, to operate as a supersedeas returnable according to law, on defendant giving bond in the sum of eight thousand dollars, conditioned as required by law.

(Signed) E. H. DURELL,
*Judge.*

*Bond for writ of error, filed March 7th*, 1867.

Know all men by these presents, that we, Louis F. Generes, principal, and Edward Dupasseur, as surety, are held and firmly bound unto Louis Bonnemer in the full and just sum of eight thousand dollars, to be paid to the said Louis Bonnemer, his certain attorney, executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and
33 administrators, jointly and severally, by these presents.

Sealed with our seals, and dated this seventh day of March, in the year of our Lord one thousand eight hundred and sixty-seven.

Whereas, lately, at a Circuit Court of the United States, fifth judicial circuit, holding sessions in and for the district of Louisiana, in a suit depending in said Circuit Court, wherein Louis Bonnemer is plaintiff, and Louis F. Generes is defendant, judgment was rendered against the said Louis F. Generes, defendant, and the said Louis F. Generes having obtained a writ of error, and filed a copy thereof, in the clerk's office of the said Circuit Court, to reverse the judgment in the aforesaid suit; and a citation directed to the said Louis Bonnemer, citing and admonishing him to be and appear at a Supreme

Court of the United States, to be holden at Washington, the first Monday of December next.

Now, the condition of the above obligation is such, that if the said Louis F. Generes shall prosecute his writ to effect, and
34 answer all damages and costs, if he fail to make his plea good, then the above obligations to be void, else to remain in full force and virtue.

(Signed) L. T. GENERES. [L. S.]
ED. DUPASSEUR. [L. S.]

Signed, sealed, and delivered in the presence of—
(Signed) A. BIDAULD.

35 *Translation of Doct. B.*

NEW ORLEANS, *Jan'y* 28, 1862.

Mr. L. Bonnemer, at Paris.

DEAR SIR AND FRIEND: Enclosed please find your acc't current made up to 1st Jan'y instant, showing in your favor a sum of $3,443 25.

We advise you at the same time that we are constrained to notify you that within the delay stipulated in our agreements, viz., three months from this date, the contract established in your letter of 27 May, 1857, and confirmed by our two letters of 20 June and 5 Jan'y following, shall cease to exist and be binding on us.

In conformity to the agreement between us, we allow you interest at the rate of 7 p.c. per annum on all sums received by us. This condition has become onerous to us; the war has suspended all kinds of business. Persons that could give sufficient security refuse
36 to borrow even at much reduced rates, and such transactions as present themselves show too much risk.

Under this state of things, you will perceive that the measure we adopt now with reluctance, and which we have postponed as long as possible, is rendered imperative by necessity.

At the same time we are at your disposal to manage your income, as depositaries and commission agents. We shall continue, if agreeable to you, as heretofore, to receive from your collecting agent all funds he may collect. If you desire us to invest and loan the money out, we will do so for your own account, and charge you the ordinary commission of 9 p. c. on the discount obtained. On funds remitted our commission will be 1 p. c.

We beg you, dear sir and friend, to rest assured of our constant devotion, and remain your affectionate friends,

ABAT, GENERES & CO.

37 *Translation of letter C.*

Mr. L. BONNEMER, *Paris*:

SIR: Your favor of 30th May last has been received, in which you ask from us a remittance of $6,000 on account of your funds in our hands. We cannot this day comply with your request, for we have

not that much to your credit, or at least we will not have it to-day or to-morrow.

According to the statement enclosed, the amount to your credit is $6,023 79; but Mr. Elliott, your agent, has notified us that we will have to give him this week the amount of your taxes; and those of the city alone amount to $900, less a few cents. You know these taxes must be paid, or else incur heavy costs. We could, therefore, not refuse the amount to Mr. Elliott, whereby your balance will be reduced to five thousand and a few dollars.

In the second place, we beg you to refer to our letter of 5 Jan'y, 1858, and you will perceive the persistence with which
38 we imposed, as an indispensable condition to our mutual relations, the clause that we must have at least 3 months' notice before you can withdraw your funds from our hands.

We have had numerous propositions to accept funds returnable on demand, at most advantageous rates of interest. Well, even in prosperous times, when money was easily obtained, we were opposed to this mode of business.

A limited experience of business sufficed to foresee what happens now-a-day, which is, that the remittance of funds will probably be asked for in hard times, when the most abundant and varied resources would remain unavailable in our hands.

Notwithstanding all this, we will not make it a matter or question of right between us.

As soon as our receipts will permit us, but for certain and not later than within the delay of the 3 months fixed, you shall receive
39 the sum claimed, if we owe you that much. In the meantime, all valuables deposited with us by Mr. Elliott will be immediately remitted to you. We don't believe that communications can remain interrupted, for the interest of the whole world demands that our advices should have free transmission one way or the other.

As to the means of remitting you these funds, we are sure they will not be wanting. One of them is the Bank of Louisiana, which has a large balance, some $400,000, in the hands of Hottinger, of Paris, which will remain there for a long time to come, notwithstanding its desire to send it on here.

Accept, sir, &c.,

ABAT, GENERES & CO.

*Translation of doc't D.*

NEW ORL'S, 28 *Jan'y*, 1862.

Mr. L. BONNEMER:

40 DEAR SIR: Enclosed find your acc't current, made up to 1st Jan'y inst., showing in your favor an amount of $3,443 25.

We advise you, at the same time, that we are constrained to notify you that within the delay stipulated in our agreements, to wit, three months from this date, the contract established in your letter of 27 May, 1857, and confirmed by our two letters of 20 June and 5 Jan'y, following, shall cease to exist and be binding on us.

In conformity to the agreement between us, we allow you interest, at the rate of 7 p. c. per annum on all sums received by us. This condition has become onerous to us. The war has suspended all kinds of business; persons that could give sufficient security refuse to borrow even at much reduced rates, and such transactions as present themselves show too much risk.

Under this state of things, you will perceive that the measure we adopt now with reluctance, and which we have postponed as long
41 as possible, is rendered imperative by necessity. At the same time we are at your disposal to manage your income, as depositaries and commission agents. We shall continue, if agreeable to you, as heretofore, to receive from your collecting agent all funds he may collect. If you desire us to invest and loan the money out, we will do so for your own account, and charge you the ordinary commission of 9 per cent. on the discount obtained. On funds remitted our commission will be 1 per cent.

We beg you, dear sir and friend, to rest assured of our constant devotion, and remain your affectionate friends.

ABAT, GENERES & CO.

Letters B and D are one and the same same thing.

*Translation of letter E.*

N. ORLEANS, *May* 25, 1857.

Mess. ABAT & GENERES & Co., *N. O.*:

GENTLEMEN: In the event of Mr. M. Elliott, at present my
42 agent, should become unwilling or incapable to continue to take charge of my interests in this city, you are authorized to act in his place and stead, and to let out my property or shares which I possess in the city in leases not to exceed one year, or otherwise; to collect the rents and all other sums that may be due me, of whatever nature, grant sufficient acquittances threfor, binding myself to ratify all you may see necessary to do within the limits of the power herein conferred on you.

With high consideration, I am yours,

L. BONNEMER.

Care of Mr. M. N. BORDE, *Paris.*

*Translation of doc't F.*

NEW ORLEANS, *May* 27, 1857.

Mess. ABAT, GENERES & Co.:

GENTLEMEN: I regret that the illness of Mr. Generes prevents me from having the pleasure of seeing him before my departure.
43 I have just now placed in your hands $3,100, as follows:

| | |
|---|---|
| My check to your order for | $2,755 |
| On the Bank of La. a note of Mr. Peebles, for | 345 |
| Payable 20 days after date | $3,100 |

It is agreed that you will pay me $77 p. c. interest per annum on that sum, as well as on all sums that you will receive every month from Mr. Elliott, my agent, or from anybody else.

In January or February of every year you will please send me a remittance for such amount as I may be in need, and of which I shall give you previous notice.

Intending to prolong my absence for two, and perhaps three, years, I wish you would send me my acc't current at the beginning of each year; striking the balance on 1st Jan'y.

Have the goodness, if you have a little leisure, to acknowledge receipt of this letter, and believe in my high consideration.

L. N. BONNEMER.

(Care of Mr. M. N. Borde, Paris.)

44 *Translation of doc't F.*

(Copy.—Sent through Lafitte Dufilho & Co.)

NEW ORL., 24 *July*, 1863.

Mr. L. Bonnemer, at Paris.

SIR: Day before yesterday we received through Mess. Lafitte, Dufilho & Co. your letter of 25 June, and we hasten to answer it.

Your letter of the latter part of March, of which you speak, has not come to hand, wherefore we could not acknowledge receipt thereof. You say that you repeat its tenor by asking us to remit the amount of your account, which you estimate to be about $4,500. The enclosed acc't current balanced on 28th Ap'l, 1862, fixes your acc't at $4,454 41. But you must not forget that since the 17th September, 1861, and up to 10th March, 1862, Mr. Elliot, your collecting agent, has paid into our hands for your account, only Confederate States treasury notes, and that consequently that account divides itself into two distinct fractions, the first $1192 73,
45 balance of account on 17th Sept., 1861, composed of sums paid in New Orleans Bank Bills. The 2d fraction of $3261 68 is the amount paid us by Mr. Elliott, (less 55 cts. postage) in Nov., Dec'r, 1861, and Jan'y and March, 1862, and is composed, as we had stated, of confederate notes.

You will therefore find enclosed the exchange of I. H. Eimer & Co. on Darillier Co., Paris, dated this day at 60 days' sight, to your order for 4293 85 francs, which at 3 60 exchange represents the first sum of $1192 73 which we debit to your account.

With regard to the second item of the settlement, say $3261 68, you would not be able to realize it at this time without suffering a heavy loss, the military authorities having, since May 1862, demonetized the confederate bills of which this amount consists; we abstain, therefore, from remitting you the same and hold it at your disposal.

When Mess. Ernest, Quertier & Co. advised us last year that you had constituted them your agents here we offered them
46 forthwith to place in their hands the amount we had for you, but these gentlemen refused to accept the same.

Respectfully

ABAT, GENERES & CO.

I certify the foregoing to be a faithful and correct translation of the French documents contained in this transcript.
Ap'l 5th, 1867.

CHS. CLAIRBORNE,
*Clerk and Interpreter.*

47 United States Circuit Court, district of Louisiana.

*Statement of facts.*

LOUIS BONNEMER
*vs.*
L. F. GENERES. } No. 5,018.

*Statement of facts, filed May 27, 1867.*

Plaintiff claims of defendant the sum of $3,261 68-100, being moneys received for petitioner by the firm of Abat, Generes, & Co., of which def't is the surviving partner.

Defendant admits that he received from pl'ff's agent, Elliott, $3,261 68-100 in notes of so-called confederate government, which he had offered to return in kind, but which pl'ff refused to receive, claiming payment in current funds.

The evidence proves that in 1857 the commercial firm of Abat, Generes, & Co., entered into a contract with plaintiff to allow him interest, at 7 pr. ct. per annum, on all sums of money
48 deposited with them, to be reimbursed to him after three months' notice. That, in consequence, plaintiff's collecting agent, M. Elliott, deposited funds with them at different times. For so much thereof as they acknowledge to have received in bank notes the defendants have accounted to the pl'ff, but not the aforesaid sum of $3,261 68-100, which they allege that they received in confederate notes, and which they offered to pay over in kind to the pl'ff's new agent. The plaintiff refused this proposition, and brought suit to recover the account in current notes.

On the 22nd of June, 1861, the defendants answered a letter of the plaintiff in which he asked for a remittance of $6,000. They answered that they had not this account to his credit, but that whatever Mr. Elliott should deposit with them would be remitted. On the 20th of January, 1862, they notified the plaintiff that they intended to put an end to the contract of 1857.

On the 24th of July, 1863, they again wrote to the plaintiff, and enclosed an account current, brought down to the 28th of
49 April, 1862. This account and those letters were filed, and are a part of the record, and marked C, D, J, K.

The def't and his firm failed to keep a separate account of the confederate notes, and in their account current of the 1st January, 1862, rendered plaintiff, omitted to designate the quantity of notes of the confederate government by them received on account of plaintiff, and the defendant, Generes, being thereto interrogated, admitted that altho' the confederate notes by him received for plaintiff

amounted to the sum of $3,261 68-100, which was the exact amount he had offered to return to him, yet he could not affirm that the notes by him tendered were the identical notes received from plaintiff's agent, inasmuch as he had received similar notes from other persons, and had deposited them in bank together, to the credit of his own firm

(Signed) E. H. DURELL, *Judge.*

50 Circuit Court of the United States, fifth circuit, and district of Louisiana.

UNITED STATES OF AMERICA:

CLERK'S OFFICE.

I, Dominick Urban, clerk of the Circuit Court of the United States for the fifth circuit, and district of Louisiana, do hereby certify that the foregoing 49 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of Louis Bonnemer *vs.* L. F. Generes, No. 5,018 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 29th day of August, A. D. 1867.

[SEAL.] D. URBAN, *Clerk.*

I, E. H. Durell, United States judge for the district of Louisiana, do hereby certify that Dominick Urban, whose name is signed to the above certificate as clerk of the Circuit Court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal at the city of New Orleans, in said district, this 29th day of August, A. D. 1867.

E. H. DURELL, *Judge.*

51 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the Judges of the Circuit Court of the United States in and for the fifth circuit, and holding sessions for the district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said Circuit Court before you, or one of you, between Louis Bonnemer, plaintiff, and Louis F. Generes, defendant, a manifest error hath happened to the great damage of the said Louis F. Generes, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court

of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness the honorable Salmon P. Chase, Chief Justice of the said Supreme Court of the United States, this seventh of March, in the year of our Lord one thousand eight hundred and sixty-seven.

[SEAL.] CH'S CLAIBORNE,
*Clerk of the United States Circuit Court*
*for District of Louisiana.*

Endorsed: United States Circuit Court. No. 5,018. Bonnemer *vs* L. F. Generes. Writ of error, filed March 7, 1867. F. B. Vinot' d'y cl'k.

52 THE UNITED STATES OF AMERICA,
*District of Louisiana :*

The President of the United States to Louis Bonnemer, greeting :

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the Circuit Court of the United States for the fifth circuit and district of Louisiana, wherein L. F. Generes is plaintiff in error and you are defendant, to show cause, if any there be, why the judgment rendered against the said L. F. Generes, as in said writ mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this second day of May, in the year of our Lord one thousand eight hundred and sixty-seven.

E. H. DURELL, *Judge.*

Endorsed : United States Circuit Court, No. 5018. Louis Bonnemer *vs.* L. F. Generes; citation in error.

*Marshal's return.*

Received May 17th, 1867; and on the 18th day of May, 1867, served a copy of the within citation in error on Hunt & Denegre, esq'rs, the attorneys named herein, by leaving it at their office, No. 80 Custom-house street, in this city, in the hands of Wm. O. Denegre, esq., one of said firm.

M. EAGAN,
*D'y U. S. Marshal.*

New Orleans, 20th May, 1867.

# Supreme Court of the United States.

DECEMBER TERM, 1868.—No. 132.

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L. F. GENERES, Pl'ff in Error,

*vs.*

LOUIS BONNEMER.

---

IN ERROR TO THE CIRCUIT COURT FOR THE DISTRICT OF COLUMBIA.

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BRIEF OF COUNSEL OF LOUIS BONNEMER, DEFENDANT IN ERROR.

This was an action by Bonnemer to recover from Louis F. Generes $3,261 68, (*see* his petition, print. trans., p. 1,) balance of an account stated between Bonnemer and the commercial firm of Abut, Generes & Co., of which Louis F. Generes was a member. (*See* account, print. trans., p. 12.)

The defendant, Generes, answers that he owes the amount, but that plaintiff is bound to receive it in confederate money. (*See* answer, print. trans., pp. 2 and 3.)

The cause was tried in the court below without a jury; there was judgment for Bonnemer on February 20, 1867, for the amount claimed, (*see* print. trans., p. 13,) and an unsuccessful application by Generes for a new trial. (Same page.) Generes lodged a writ of error in the clerk's office below on 7th March, 1867. (*See* print. trans., p. 22.)

The record shows no demurrer, ruling of evidence, or bill of exceptions.

There is a "statement of facts," so called, made by the judge of the court below on May 27, 1867. (*See* print. trans., p. 20.)

This was eighty-three days after the writ of error was allowed, which was on the 5th March, 1867, (*see* print. trans., p. 15,) and it cannot be held by this court as part of the record.

W. States *vs.* King, 7 Howard, p. 846.
Suydham *vs.* Williamson, 20 Howard, p. 428.

Moreover, it is not a statement of the facts, but a recapitulation and embodiment of the evidence, which is inadmissible.

Sec. 4 act of March 3, 1865, 13 Stats. at Large, p. 501.
La. Mut. Ins. Co. *vs.* Tweed, decided 25th Jan., 1869.

Respectfully submitted, 4th February, 1869.

THOS. J. DURANT,
*For Df't in Error.*

# Supreme Court of the United States.

DECEMBER TERM, A. D. 1868.

LOUIS T. GENECHES,
PLAINTIFF IN ERROR,
vs.
LOUIS BONNEMER.
No. 139.

## BRIEF FOR PLAINTIFF IN ERROR.

LOUIS JANIN.
*Of Counsel for Plaintiff in Error.*

# Supreme Court of the United States.

LOUIS T. GÉNÉRÈS

PLAINTIFF IN ERROR

*vs.*

LOUIS BONNEMER.

No. 132.

*Brief for Plaintiff in Error.*

This is a writ of error to the Circuit Court of the United States, for the fifth circuit and district of Louisiana.

The case, in the absence of the circuit Judge, was heard and decided by the district Judge.

The evidence in the case is the statement of facts made out by the Judge, and the account current and letters, C. D. J. & K., made by that statement parts of the record. (p. 20.)

This account current and these letters are in the record in the French language of the originals, but the undersigned will only refer to their translations certified by the clerk, and interpreter of the court. (20.)

Document C., (p. 16) is a letter from Abat, Générès & Co., to the defendant in error.

Document D., (p. 17) is another letter from the same to the same party.

Document K., (p. 11.) is an account current between the same parties rendered on July 1, 1862.

Document I in the original language (p. 9.) is a letter from Abat & Générès, dated July 24, 1863.

It is translated on p. 19 of the record, and there erroneously described as document F. There is really a document F in the translation and that is on p. 18. But even without that document, which is a letter from Abat, Générès & Co., to the

defendant in error, of July 24, 1863, the simple and uncontested facts of this case can be made very plain to the court.

From these sources of information it appears, that Abat, Générès & Co., were brokers in good credit in New Orleans, the plaintiff in error, L. F. Générès, being a member of the firm, and that Bonnemer, the defendant in error, had property in New Orleans, the rents of which were collected by Manuel Elliott, his agent. He was directed to pay over the proceeds of his collections to Abat, Générès & Co., who by a contract of 1857, agreed to allow to the defendant in error interest on the amount so deposited with them at the rate of 7 per cent per annum, and to refund the principal after three months notice. (p. 20.)

On the 22d of June, 1861, Abal, Générès & Co. received a letter of Bonnemer, in which he asked for a remittance of $6000. They answered that they had not that amount to his credit, but that whatever Mr. Elliott should deposit with them would be remitted. (16, 20 of Rec.)

On the 20th of January, 1862, Abat, Générès & Co., notified Borenemer that they intended to put an end to the contract of 1857, (20.) This part of the statement of the court, is no doubt based upon letter C. on page 16, in which they explain that the political condition of the country was the cause of their pursuing this course. They insisted upon the delay of 3 months, stipulated in their contract of 1857, and declared that if within that delay they owed him the sum demanded (6000) they would remit it to him, and that in the mean time, all valuables deposited with them by Mr. Elliott would be transmitted to him.

On the 24th of July, 1863, they again wrote to the defendant in error, and enclosed an account current brought down to the 28th of April, 1862, (statement of the court, p. 20;) that letter is on p. 19, and the account enclosed in it on pp. 11 and 12; these show that Abat, Générès & Co. thus owed to the defendant in error $4,454 41, the whole of which had been received by them from Elliott, Bonnemer's collecting agent, viz, $1,192 75, in bank notes, and $3,261 88 in Confederate notes. For this sum of $1,192 75 received in bank

notes, Abat, Générès & Co. immediately made a remittance to the defendant in error, (p. 19.) which is admitted in the petition. That the remaining amount of $3,261 68 was received by them in Confederate notes from Elliott, was not only stated in the letter of July 24, 1863, but was proved by the evidence of Générès himself, not contradicted by Elliott, who was produced as a witness by the original plaintiff. (p. 4,) nor doubted by the court, (p. 20.) As regards the amount, Abat and Générès wrote to Bonnemer that it could not be realized without great loss, and that therefore they would not remit it, but hold it at his disposal, (p. 19.)

But the defendant in error refused either to receive this amount in Confederate notes, or anything less than if this amount had been received in lawful currency.

The district court did not question any of the facts herein stated, but held (p. 20,) that the defendant Générès and his firm had failed to keep a separate account of the Confederate notes, and in their account current of the 1st of July, 1862, rendered to plaintiff, (Bonnemer,) had omitted to designate the quantity of notes of the Confederate government by them received on account of plaintiff, (Bonnemer,) and the defendant, (Générès,) being thereunto interrogated, admitted that although the confederate notes by him received for plaintiff amounted to the sum of $3,261 68, which was the exact sum he had offered to return to him, yet he could not affirm that the notes tendered were the identical notes received from the plaintiff's agent, inasmuch as he had received similar notes from other persons, and had deposited them in bank together, to the credit of his firm.

And thereupon the district court gave judgment against Générès for this amount of $3,261 68, payable of course in lawful money.

As thus evidently the facts of the case are not at all disputed, we contend that the conclusions deduced from them by the district court, are a perfect *non sequitur*.

Abat, Générès & Co., were not the general nor the primary agents of Bonnemer. These Confederate notes were

the proceeds of the rents of property belonging to Bonnemer, which were collected by Elliott. They had no right to dictate to him how and in what currency he should collect these rents. Their only undertaking was to receive from Elliott whatever he might deposit with them, to allow seven per cent. interest on it, and to return it after three months notice. The reception of these Confederate notes from Elliott threw no greater responsibility upon them than if they had received them from Bonnemer himself. They did not receive these rents under an obligation to remit them immediately to Bonnemer, but they were permitted to use them on paying interest. When these notes were received by Elliott, the risk was Bonnemer's. It is not to be presumed that Elliott did not inform Bonnemer of the collections he had made, and how he had made them. He was certainly the primary agent of Bonnemer, and Généres cannot be made responsible for his acts or mistakes.

We must solicit the attention of the court to the circumstance that the only actors in this transaction who had a personal knowledge of it, were Manuel Elliott, the collecting agent of the defendant in error, who paid the money over to Généres, and Généres himself. Elliott was produced as a witness by Bonnemer, and Généres gave his evidence for the defence. (See the clerk's note of evidence on p. 4 of the record.)

It is evident from the statement of facts prepared by the judge, that there was no contradiction between those witnesses.

The case is therefore one of great simplicity.

Louis Bonnemer, the defendant in error, represented by Manuel Elliott, lends to Généres, the defendant in error, $3,261 88 in Confederate notes; he now claims the reimbursement of the same amount in lawful currency.

What Confederate notes are, is a matter of contemporaneous history, of which this court takes cognizance. The effect of contracts based upon Confederate currency, has frequently been considered since the cessation of the civil war, in the courts of the States who attempted to secede. It now, for the

first time, appears before the court, which will determine it status throughout the whole country.

In Louisiana, where the transaction now before the court, took place, the original plaintiff would have obtained no relief in the State courts. The supreme court of that State has frequently held, that courts will not enforce a contract the consideration of which was Confederate notes. Hunley *v.* Scott, 19 La., annual rep., 161; Reeve *v.* Doughty ib., 164; Huck *v.* Haller, ib., 257; Washburn *v.* Offutt, ib., 269; King *v.* Huston, ib., 288; McCracken *v.* Poole, ib., 359; Howard *v.* Kirwin, ib., 632; Platt *v.* Maples, ib., 459; Norton *v.* Dawson, ib., 464; Windham *v.* Cert, ib., 498.

To the same effect are Pettz *v.* Long. 40, Mo., 532; Hale *v* Shay, 4 Coldw., 275; Walker *v.* Walker, ib., 300; Fain *v* Headerick, ib., 327.

A different policy prevailed in Georgia and perhaps some other States. In Georgia, in pursuance of an ordinance of 1865, a debt contracted in Confederate notes was not absolutely null, but a recovery could be had on it of the amount which the Confederate notes were worth in lawful currency, at the time when the debt fell due. Oliver *v.* Coleman, 36 Ga.. 552. Elder *v.* Ogletree, 36 Ga., 64.

But nowhere has it as yet been held, as it was by the court in this case, that a debt contracted in Confederate notes could be recovered dollar for dollar in lawful currency.

Under the system most favorable to Bonnemer, he could only have claimed the value of his Confederate notes at the time when Abat and Générès were bound to pay for them On the 20th of January, 1862, Abat & Générès notified Bonnemer that they intended to put an end to the contract of 1857 (statement, p. 20, letter, p. 16.) as under the contract of 1857 they were entitled to three months notice, and they were not bound to pay until three months after the 20th of January, 1862, say by the 20th of April, 1862. But whether they were bound to pay the value of these notes on the 20th of January 1862, or on the 20th of April, 1862, the defendant in error ought to have claimed and proved that value only. At either

of these periods Confederate notes had a certain value in New Orleans. Even after the capture of New Orleans, General Butler, by an ordinance of the 1st of May, 1862, expressly permitted the temporary circulation of Confederate notes, and it was not finally prohibited until after the 27th of May, 1862. (Parton's General Butler at New Orleans, pp. 294 and 417)

The defendant in error cannot presume that the court will ignore the late civil war or its effect upon the baseless currency of the conquered section of country. This he seems to presume by coolly claiming in lawful currency dollar for dollar the amount he lent in Confederate currency.

The court knows that a Confederate dollar did not mean the same thing as a paper having on its face the promise of the United States to pay it. What the Confederate dollar really was in currency, he ought to have shown, and his neglect to do so authorizes us to claim the dismissal of this debt under our prayer for general relief. (See answer. p. 3.)

C. S. Silver, adm'r, *v.* R. J. Ladd and A. J. Knolt, lately decided by this court.

There is a case precisely in point in the Georgia reports, Ausley and Anderson, 35 Ga., 8, (3 am, law rev. 144,) the syllabus of which is as follows:

A sold goods for Confederate money, for and at the request of B, who mistaking his legal rights refused to accept the proceeds; A thereupon deposited the amount with his bankers, in his own name, and notified B that it was subject to his order at any time. Confederate money became worthless, and B now ratifies the sale, and demands the value of the proceeds at that time; held, that he could not recover, the fact that the defendant did not make a special deposit did not render him liable for a loss arising from the nature of the proceeds themselves.

Respectfully submitted,

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